

Remarks

Claims 1-48 are pending.

Claim 1 was amended to correct a typographical error on line 6 thereof.

Claims 44-48 were corrected to recite that “said routine generates said report” in order to provide proper antecedent basis with respect to Claim 42.

Rejections under 35 USC § 103(a)

The Examiner rejects Claims 1-32 as being unpatentable over “Information on Hertz Corporation, 1997 - 2002” (Reference U of form PTO-892) (Hertz-I) in view of “All Open Orders For Customer Number 218556” (Reference V of form PTO-892) (Motorola) in further view of U.S. Patent Application Publication No. 2002/0035488 (Aquila et al.). ”

Applicants traverse the citation of all of the pages 1-61 of Hertz-I as cited by the Examiner, since it appears that the Examiner has improperly included Internet information (e.g., from 2002) dating from after Applicants’ filing date.

An electronic publication, including an on-line database or Internet publication, is considered to be a “printed publication” within the meaning of 35 U.S.C. §§ 102(a) and (b) provided the publication was accessible to persons concerned with the art to which the document relates.

See In re Wyer, 655 F.2d 221, 227, 210 USPQ 790, 795 (CCPA 1981).

However, the evidence of record does not show that certain portions of Hertz-I were publicly available and accessible as of the filing date of the present Application, namely, January 19, 2001.

Date of Availability

Prior art disclosures on the Internet or on an on-line database are considered to be publicly available *as of the date the item was publicly posted*. If the publication does not include a publication date (or retrieval date), it *cannot be relied upon as prior art* under 35 U.S.C. 102(a) or (b) Examiners may ask the Scientific and Technical Information Center to find the earliest date of publication. See MPEP § 901.06(a), paragraph IV. G.

See MPEP 2128 (*emphasis added*).

Applicants traverse the incorporation of portions of Hertz-I, which clearly do not contain a date of public posting prior to Applicants’ filing date. Those portions of Hertz-I include pages 37-52 and 54-61, which show a date of 2002, which date is clearly after Applicants’ filing date. Applicants also traverse any inference that the Examiner might make

that the state of the Internet on September 24, 2002, reflects the state of the Internet prior to January 19, 2001. For example, the Examiner states on page 6 of the Office Action that as of “the print date of these pages in 24 September 200[2], it was not possible for the examiner to go back in time to create a reservation on Hertz prior to the applicants[’] priority date.”

In this regard, it is well settled that the burden of proof is on the Examiner:

In making a rejection under 35 U.S.C. § 103, the ***burden is on the examiner*** to establish a *prima facie* case of obviousness. In order to carry this burden, the examiner must establish why one having ordinary skill in the art would have been led to the claimed invention by the reasonable teachings or suggestions found in the ***prior art***, or by a reasonable inference to the artisan contained in such teachings or suggestions.

See In re Sernaker, 217 USPQ 1 (Fed. Cir. 1983) (***emphasis added***).

Hence, it is requested that the Examiner include only pages 1-36 and 53 of Hertz-I (hereinafter, Hertz-II) in a new form PTO-892, in order that the record shows that the Examiner has cited, made of record and considered that particular reference.

In view of the above, and in the interest of the completeness of the record, Applicants respond to the present rejection in terms of only Hertz-II (*i.e.*, pages 1-36 and 53 of Hertz-I), which pages contain a date prior to Applicants’ filing date.

Applicants traverse the citation of the single page of Motorola as being a printed publication, which was available and accessible to persons of ordinary skill in the relevant field of art. On its face, the document states “All Open Orders For Customer Number 218556”. There is nothing of record to show that Motorola is an Internet publication or that Motorola is any on-line database available to members of the public, much less available to persons of ordinary skill in the relevant field of art.

An electronic publication, including an on-line database or Internet publication, is considered to be a “printed publication” within the meaning of 35 U.S.C. 102(a) and (b) ***provided the publication was accessible to persons concerned with the art to which the document relates***. *See In re Wyer*, 655 F.2d 221, 227, 210 USPQ 790, 795 (CCPA 1981) (“Accordingly, whether information is printed, handwritten, or on microfilm or a magnetic disc or tape, etc., the one who wishes to characterize the information, in whatever form it may be, as a ‘printed publication’ * * * should produce sufficient proof of its dissemination or that it has otherwise been available and accessible to persons concerned with the art to which the document relates and thus most likely to avail themselves of its contents.’ ”

MPEP § 2128 (***emphasis added***).

Nothing of record shows any proof of the public dissemination of Motorola. Nothing of record shows that Motorola has been available and accessible to persons concerned with the art to which the document relates and thus most likely to avail themselves of its contents.

Furthermore, even if the Examiner might show that Motorola might have been available and accessible to a member of the public, although this is not admitted, the proper test of whether a reference is a printed publication is whether there has been:

a satisfactory showing that such document has been ... made available to the extent that *persons interested and ordinarily skilled in the subject matter or art, exercising reasonable diligence, can locate it.*

In re Wyer, 655 F.2d 221, 226; 210 USPQ 790, 794 (CCPA 1981) (*emphasis added*).

In the present Application, Applicants' particular field of art is a system and method for managing vehicle rentals of a vehicle rental service provider over a communication channel or network, such as the Internet. Nothing of record shows that any vehicle rental service provider would be any customer of Motorola. Instead, the Examiner states that Motorola discloses a system and method which allows "Motorola Business Partners with authorized access to view the transaction they are involved in". Even if the Examiner might be correct in this regard, although this is not admitted, nothing of record shows that any vehicle rental service provider would be a "Motorola Business Partner[] with authorized access" to any such transaction, and could locate Motorola by exercising reasonable diligence.

Hertz-II (p. 17) discloses that one can check the latest Hertz rates and instantly make, modify, or cancel reservations on-line. A credit card number is required to secure all reservations. If you're a Hertz #1 Club® or a Hertz #1 Club Gold® member you can use some or all of the information (including the credit card number) contained in your rental profile. Hertz-II also discloses (pp. 18-20) an interactive reservation process.

Aquila et al. discloses a system and method of administering, tracking and managing of claims processing. An application server 50 (Figure 1) sends a request to one of external partner systems 62 via a secure communications medium 61, such as, privately leased lines or the like. These external partner systems 62 include an insurance carrier system 65. Figure 4 of Aquila et al. shows a flow diagram of a process of administering, tracking and managing insurance claim processing. A first notice of loss sub-system (FNOL) 210 captures initial claim data directly from a consumer using client software 205. In another embodiment, the FNOL 210 captures initial claim data through a commercial participant.

The FNOL 210 presents the user, the consumer of the commercial participant, with tailored questions, where the presentation format varies depending on the type of user. The claim data captured can be transmitted to and stored in an eclaim database 280 (Figure 3), or the insurance carrier system 65. The FNOL 210 can continue to capture claim information, store the claim information received, but will not be able to complete the transaction nor assign a claim number until the FNOL 210 is able to connect to the insurance carrier system 65 to confirm that the policy information matches a valid insurance policy.

Aquila et al. discloses that a triage sub-system 220 (Figure 4) receives claim data and determines the severity and priority of the claim according to business rules established by an insurance carrier. Next, the triage sub-system 220 determines the type or type(s) of assignees to assign a claim to according to business rules established by an insurance carrier. An assignment sub-system 230 (Figure 4) receives the claim from the triage sub-system 220, identifies the assignee most qualified for the assignment according to insurance carrier business rules, makes the assignment, records that the assignment has been made, and notifies the assignee. In another embodiment, once the assignments have been identified and the assignees have been notified, the insurance carrier system 65 is updated with claim information and details of the assignment to reflect the assignment.

Aquila et al. discloses that a Connection 300 periodically posts repair status and expected date of completion information or other claim information (e.g., administrative information, or status/capacity to fill additional assignments) to a website or the eclaim database 280, and then can notify a vehicle owner that the vehicle owner can retrieve repair status or other data relating to their vehicle from the website or the eclaim database 280. The vehicle owner will no longer need to directly contact the repair facility to determine the status of the repair.

Figure 28 of Aquila et al. shows a screenshot of an example of canned or standard reports that a reporting sub-system can generate and a user can select. The reporting sub-system produces canned reports, reports whose criteria and data elements are pre-selected and static. A user can select from canned reports, but is unable to designate how the data of the report is presented. In one embodiment, the user can select the time frame (e.g., for the month of March, for the first quarter, for the year of 2001) of a canned report. Examples of canned or set operational reports generated from transaction logs data include the number of assignments made by adjuster per month, and the number of claims received by FNOL 210 per month. Examples of canned reports generated from transactional claim data include cycle

time (calculated from the start and completion of a process), number of estimates, damage by vehicle type, average appraisal fee, and OEM part usage.

Figure 29 of Aquila et al. shows a screenshot of a report generated by a reporting sub-system that is indexed by region and by state within each region. In one embodiment, the reporting sub-system 270 allows a user to drill down and view the specific details of customized reports (*e.g.*, the number of assignments can be presented in a per day, per adjuster, per week, per month, per quarter and per year format, or by adjuster, by service office, by region, and by insurance carrier). In one embodiment, customized reports are generated by third party systems. Reports can be generated to analyze and compare trends in the processing of claims. For example, the average estimate for a certain type of repair over a current quarter, the month prior to the current quarter, the quarter prior to the current quarter, and the year prior to the current quarter. These trend-analyzing reports can provide an insurance carrier with data to determine if subsequent estimates for similar types of repair are reasonable or even potentially fraudulent. Reports can be generated real time at the point of request or at set times with the results being stored in the eclaim database 280, the directory database 290, or the insurance carrier system 65.

It is noted that Aquila et al. purports to claim priority to a provisional application filed on April 3, 2000. Applicants traverse the citation of Aquila et al. to the extent that its disclosure in the application filed on April 3, 2001, which is after Applicants' filing date, was not included in that provisional application. Furthermore, Applicants reserve the right to file an affidavit under Rule 131 as to Aquila et al.

Claim 1 recites, *inter alia*, a method for managing rentals from a rental service provider by an insurance service provider having a plurality of claims adjusters and claims managers, the method comprising: employing a server system including a database having rental claim information for each of the rentals; employing a plurality of client systems for the claims adjusters and the claims managers; employing a global communication network to interconnect the server system with the client systems; displaying at least some of the rental claim information for one of the rentals at one of the client systems; modifying the rental claim information for the one of the rentals from the one of the client systems; and *reviewing by exception* some of the rental claim information from another one of the client systems.

As set forth in the present specification at page 7, lines 23-30, in accordance with a preferred practice of the invention, another user 86, such as a claims manager, may review by exception some of the rental claim information 110 from another client system, such as 92. For example, the claims manager selects one of the vehicle rental variables 110,

enters a value (V) 114 corresponding to the selected one of the vehicle rental variables 100, and responsive to a request (R) 116, the server routine 96 generates a report (RPT) 118 for at least one of the vehicle rentals 81 for which the selected one of the vehicle rental variables 100 differs from (e.g., is greater than; is less than) the entered value 114.

Also, as set forth at page 22, lines 4-10, the reporting capability of the system 120 allows management at any level to review files by exception (e.g., over x number of days or extensions) to eliminate problem vehicle rentals before they occur. Without this tool, insurance companies are only made aware of a “problem” claim file as the invoice is submitted, which is too late to take any suitable corrective action. With this system 120, management can intervene, as necessary, to reduce vehicle rental severity before the vehicle rental is concluded.

The Examiner states that Hertz-I does not disclose allowing business partners to access Hertz system to get information with transactions they are involved in, and that Hertz-I does not disclose a database having rental claim information, displaying claim information, or managing claim processing and reviewing claim information.

The Examiner states that it is “known to use Electronic Data Interchange (EDI) to exchange data with business partners e.g. IBM’s WebSphere, Message Queue Manager (MQM), APPC etc. to expedite transactions and minimize paper consumption.” In the absence of a reference in support of this statement, that statement is traversed and it is requested that the Examiner cite a reference within the context of the present claims.

Hertz-II, which discloses an interactive reservation process for car rentals, and which does not teach or suggest managing claim processing and reviewing claim information, does not teach or suggest the refined recital of *reviewing by exception rental claim information* from any client system.

As to Claim 1, the Examiner states that Aquila et al. discloses “to review rental claim information [Fig. 4]”. Aquila et al., which discloses (Figure 28) canned or standard reports, which discloses (Figure 29) reports that are indexed by region and by state within each region, reports that show specific details per day, per week, per month, per quarter, per year, by service office, by adjuster, by region and by insurance carrier, and which discloses analyzing and comparing trends in the processing of claims by providing the average estimate for a certain type of repair over a current quarter, the month prior to the current quarter, the quarter prior to the current quarter, and the year prior to the current quarter, adds nothing to Hertz-II regarding the refined recital of Claim 1.

Without waiving Applicants' traversal of Motorola and assuming, without admitting that Motorola is "printed publication" within the meaning of 35 U.S.C. 102(a) and (b), at best, Motorola discloses a way to examine a Motorola customer's purchase order number by requested ship date, scheduled ship date and actual ship date. Hence, Motorola adds nothing to Hertz-II and/or Aquila et al. regarding the refined recital of reviewing by exception rental claim information from a client system.

Accordingly, for the above reasons, it is submitted that Claim 1 patentably distinguishes over the references.

Claims 2-32 depend directly or indirectly from Claim 1 and patentably distinguish over the references for the same reasons.

Furthermore, Claim 2 recites entering rental reservations; and displaying at one of the client systems a scoreboard including a count of unconfirmed rental reservations. The Examiner states that none of the prior art of record discloses displaying a count of unconfirmed rental reservations. As set forth in the present application, unconfirmed reservations are ones, which have been initiated by the user, but which the responsible branch office has yet to accept. It is submitted that none of the references of record, whether taken alone or in combination, teach or suggest any unconfirmed rental reservation, much less the refined recital of displaying at one client system a scoreboard including a count of unconfirmed rental reservations. Accordingly, it is submitted that Claim 2 further patentably distinguishes over the references.

Furthermore, Claim 3 recites displaying at one of the client systems a list of open rentals; including rate information with the open rentals; and changing a rate for one of the open rentals. It is submitted that none of the references of record, whether taken alone or in combination, teach or suggest changing a rate for one of the recited open rentals within the context of Claims 1 and 3. Therefore, it is submitted that Claim 3 further patentably distinguishes over the references.

Furthermore, Claim 4 recites providing an expected duration for one of the recited open rentals of Claim 3; and extending the expected duration. Claim 4 is not separately asserted to be patentable except in combination with Claims 1 and 3 from which it depends.

The Examiner states that Hertz-I does not disclose generating any reports or the contents of such reports. As to pages 51 and 52 of Hertz-I, for reasons discussed above, Hertz-II does not contain those pages, which the Examiner acknowledges have a print date of September 24, 2002. That date is after Applicants' filing date. Applicants traverse any

inference that the Examiner might make that the state of the Internet on September 24, 2002, reflects the state of the Internet prior to January 19, 2001.

Aquila et al. discloses (Figure 28) canned or standard reports, discloses (Figure 29) reports that are indexed by region and by state within each region, reports that show specific details per day, per week, per month, per quarter, per year, by service office, by adjuster, by region and by insurance carrier, and discloses analyzing and comparing trends in the processing of claims by providing the average estimate for a certain type of repair over a current quarter, the month prior to the current quarter, the quarter prior to the current quarter, and the year prior to the current quarter. However, this reference does not teach or suggest any unconfirmed reservation, much less any report regarding any unconfirmed reservation. Accordingly, this reference adds nothing to Hertz-II regarding the refined recital of Claim 8 of providing a plurality of unconfirmed reservations; and generating a plurality of reports regarding the unconfirmed reservations. Hence, it is submitted that Claim 8 further patentably distinguishes over the references.

Furthermore, Claim 9 recites generating one of the reports for one of the insurance service provider, a claims center of the insurance service provider, one of the claims adjusters, all of the claims adjusters, a vehicle repair shop, and the rental service provider. Since the references neither teach or suggest the refined recital of Claim 8, they clearly neither teach or suggest this additional limitation which further distinguishes over the references.

The Examiner states that Hertz-I does not disclose generating any reports or the contents of such reports. It is submitted that Hertz-II, at best, discloses (see p. 22: "If you want to make a change to any Hertz reservation") a system to inquire about a pending single reservation. It is submitted that Aquila et al. adds nothing to Hertz-II regarding any reservation, much less a plurality of reports regarding a plurality of pending reservations. Accordingly, it is submitted that Aquila et al. adds nothing to Hertz-II regarding the refined recital of Claim 10 of providing a plurality of pending reservations; and generating a plurality of reports regarding the pending reservations. Hence, it is submitted that Claim 10 further patentably distinguishes over the references.

Furthermore, Claim 11 recites generating one of the reports for one of the insurance service provider, a claims center of the insurance service provider, one of the claims adjusters, all of the claims adjusters, a vehicle repair shop, and the rental service provider. Since the references neither teach or suggest the refined recital of Claim 10, they

clearly neither teach or suggest this additional limitation which further distinguishes over the references.

As to Claim 14, the Examiner states that Hertz-I discloses “allowing customers to select rental variables, entering value (e.g. rate, special offers, insurance charges etc.) based on customer selections [page 28]”. Applicants’ attorney has carefully reviewed page 28 of Hertz-I and Hertz-II and has found no such entering step, although it is noted that page 21 discloses, for example, entering names, dates, times, airline and flight number, rental state or airport code.

Claim 14 recites maintaining a database of rental variables associated with each of the open rentals; selecting one of the rental variables; entering a value corresponding to the selected one of the rental variables; and generating one of the reports including at least some of the open rentals for which the selected one of the rental variables exceeds the entered value.

Hertz-II does not teach or suggest generating a report including at least some of open rentals for which a selected rental variable exceeds an entered value.

The Examiner states that Aquila et al. employs a reporting sub-system that summarizes and formats data stored eclaim file or the insurance carrier system “based on a number of criteria to generate various reports [0026]”. Actually, that entire portion of Aquila et al. recites in full: “The reporting sub-system summarizes and formats data stored eclaim file or the insurance carrier system based on a number of criteria to generate various reports”. A review of Aquila et al. shows that it discloses (Figure 28) canned or standard reports, discloses (Figure 29) reports that are indexed by region and by state within each region, reports that show specific details per day, per week, per month, per quarter, per year, by service office, by adjuster, by region and by insurance carrier, and discloses analyzing and comparing trends in the processing of claims by providing the average estimate for a certain type of repair over a current quarter, the month prior to the current quarter, the quarter prior to the current quarter, and the year prior to the current quarter. However, this reference does not teach or suggest the refined recital of generating a report including at least some open rentals for which a *selected rental variable exceeds an entered value*.

Accordingly, Aquila et al. adds nothing to Hertz-II regarding the refined recital of Claim 14, which further patentably distinguishes over the references.

Furthermore, Claim 15 recites employing an authorized rental rate and an actual rental rate as some of the rental variables; employing a cost value as the entered value; and generating the one of the reports including at least some of the open rentals for which the

actual rental rate exceeds the authorized rental rate. Since the references neither teach or suggest the refined recital of Claim 14, they clearly neither teach or suggest these additional limitations which further patentably distinguish over the references.

As to Claims 15-19, it is noted that the Examiner states that “[i]t is a business choice to select what variables to use and what formula to apply to generate [the] desired report.” However, Aquila et al., which employs: (a) canned or standard reports, (b) reports that are indexed by region, (c) reports that show specific details per unit of time, (d) reports by service office, adjuster, region or insurance carrier, and (e) reports providing an average estimate for a certain type of repair over a period of time, does not teach or suggest selecting a rental variable; entering a value corresponding to a selected rental variable; and generating a report including at least some open rentals for which such selected rental variable exceeds such entered value as set forth in the refined recital of Claim 14.

It is submitted that the Examiner improperly bases the rejection of Claims 15-19 on hindsight. In this regard, the assertion that “reports are generated to help business make a decision” is too general because it could cover *any* report and does not address why the specific recital of any of Claims 15-19 would have been obvious. Additionally, it is submitted that there is nothing in any of the cited references that would suggest a report including at least some of open rentals for which a selected rental variable exceeds an entered value, much less any report including, for example, the refined recital of Claim 15, in which a report includes at least some of open rentals for which an *actual rental rate exceeds an authorized rental rate*.

Furthermore, Claim 16 recites employing an authorized rental period as one of the rental variables; employing a time value as the entered value; and generating the one of the reports including at least some of the open rentals for which the authorized rental period is less than the time value. Since the references neither teach or suggest the refined recital of Claim 14, they clearly neither teach or suggest these additional limitations which further patentably distinguish over the references.

Furthermore, Claim 17 recites employing a count of rental extensions as one of the rental variables; employing a count value as the entered value; and generating the one of the reports including at least some of the open rentals for which the count of rental extensions exceeds the count value. Since the references neither teach or suggest the refined recital of Claim 14, they clearly neither teach or suggest these additional limitations which further patentably distinguish over the references.

Furthermore, Claim 18 recites employing a total rental cost as one of the rental variables; employing a cost value as the entered value; and generating the one of the reports including at least some of the open rentals for which the total rental cost exceeds the cost value. Since the references neither teach or suggest the refined recital of Claim 14, they clearly neither teach or suggest these additional limitations which further patentably distinguish over the references.

Furthermore, Claim 19 recites employing an extension time period as one of the rental variables; employing a time value as the entered value; and generating the one of the reports including at least some of the open rentals for which the extension time period exceeds the time value. Since the references neither teach or suggest the refined recital of Claim 14, they clearly neither teach or suggest these additional limitations which further patentably distinguish over the references.

Furthermore, Claim 20 recites providing a plurality of billed rentals; and generating a plurality of reports regarding the billed rentals. Claim 20 is not separately asserted to be patentable except in combination with Claim 1 from which it depends.

Claims 21-27 are not separately asserted to be patentable except in combination with Claims 1 and 20 from which they directly or indirectly depend.

Claims 28-30 are not separately asserted to be patentable except in combination with Claim 1 from which they depend.

Furthermore, Claim 31 recites providing a plurality of unconfirmed reservations; and providing a listing of all of the unconfirmed reservations. The Examiner states that Hertz-I does not disclose to generate a query to search a database or file system. It is submitted that Hertz-II does not teach or suggest any unconfirmed reservation, much less providing a listing of all unconfirmed reservations. Aquila et al., which does not teach or suggest any unconfirmed reservation, clearly adds nothing to Hertz-II regarding the refined recital of Claim 31, which further patentably distinguishes over the references.

Claim 32 is not separately asserted to be patentable except in combination with Claims 1 and 31 from which it depends.

Claim 33 is an independent claim which recites, *inter alia*, a method for managing vehicle rentals from a vehicle rental service provider for a plurality of users comprising: employing a server system including a database having vehicle rental variables for the vehicle rentals; employing a plurality of client systems for the users; employing a global communication network to interconnect the server system with the client systems; selecting one of the vehicle rental variables; entering a value corresponding to the selected

one of the vehicle rental variables; and generating a report for at least one of the vehicle rentals for which the selected one of the vehicle rental variables differs from the entered value.

Claim 33 recites generating a report for at least one of the recited vehicle rentals for which the *selected one of the vehicle rental variables differs from the entered value.*

The Examiner states that Hertz-I does not disclose allowing business partners to access Hertz system to get information with transactions they are involved in, and that Hertz-I does not disclose a database having rental claim information, displaying claim information, or managing claim processing and reviewing claim information.

The Examiner states that it is “known to use Electronic Data Interchange (EDI) to exchange data with business partners e.g. IBM’s WebSphere, Message Queue Manager (MQM), APPC etc. to expedite transactions and minimize paper consumption.” In the absence of a reference in support of this statement, that statement is traversed and it is requested that the Examiner cite a reference within the context of the present claims.

Hertz-II, which discloses an interactive reservation process for car rentals, and which does not teach or suggest managing claim processing and reviewing claim information, does not teach or suggest generating a report for at least one vehicle rental for which a selected vehicle rental variable differs from an entered value.

As to Claim 33, the Examiner states that Aquila et al. discloses “to review rental claim information [Fig. 4]”. Aquila et al., which discloses (Figure 28) canned or standard reports, which discloses (Figure 29) reports that are indexed by region and by state within each region, reports that show specific details per day, per week, per month, per quarter, per year, by service office, by adjuster, by region and by insurance carrier, and which discloses analyzing and comparing trends in the processing of claims by providing the average estimate for a certain type of repair over a current quarter, the month prior to the current quarter, the quarter prior to the current quarter, and the year prior to the current quarter, adds nothing to Hertz-II regarding the refined recital of Claim 33.

Without waiving Applicants’ traversal of Motorola and assuming, without admitting that Motorola is “printed publication” within the meaning of 35 U.S.C. 102(a) and (b), at best, Motorola discloses a way to examine a Motorola customer’s purchase order number by requested ship date, scheduled ship date and actual ship date. Hence, Motorola adds nothing to Hertz-II and/or Aquila et al. regarding generating a report for at least one

vehicle rental for which a selected one of vehicle rental variables differs from an entered value.

Therefore, for the above reasons, it is submitted that Claim 33 patentably distinguishes over the references.

Claims 34-41 depend directly or indirectly from Claim 33 and patentably distinguish over the references for the same reasons.

Claims 34-36 are not separately asserted to be patentable except in combination with Claim 33 from which they directly or indirectly depend.

Furthermore, Claim 37 recites employing an authorized rental rate and an actual rental rate as some of the vehicle rental variables; employing a cost value as the entered value; and generating the one of the reports including at least some of the open rentals for which the actual rental rate exceeds the authorized rental rate. Claim 37 further patentably distinguishes over the references for similar reasons as was discussed above in connection with Claim 15.

Furthermore, Claim 38 recites employing an authorized rental period as one of the vehicle rental variables; employing a time value as the entered value; and generating the one of the reports including at least some of the open rentals for which the authorized rental period is less than the time value. Claim 38 further patentably distinguishes over the references for similar reasons as was discussed above in connection with Claim 16.

Furthermore, Claim 39 recites employing a count of rental extensions as one of the vehicle rental variables; employing a count value as the entered value; and generating the one of the reports including at least some of the open rentals for which the count of rental extensions exceeds the count value. Claim 39 further patentably distinguishes over the references for similar reasons as was discussed above in connection with Claim 17.

Furthermore, Claim 40 recites employing a total rental cost as one of the vehicle rental variables; employing a cost value as the entered value; and generating the one of the reports including at least some of the open rentals for which the total rental cost exceeds the cost value. Claim 40 further patentably distinguishes over the references for similar reasons as was discussed above in connection with Claim 18.

Furthermore, Claim 41 recites employing an extension time period as one of the vehicle rental variables; employing a time value as the entered value; and generating the one of the reports including at least some of the open rentals for which the extension time period exceeds the time value. Claim 41 further patentably distinguishes over the references for similar reasons as was discussed above in connection with Claim 19.

Claim 42 is an independent claim which recites, *inter alia*, a system for managing vehicle rentals from a vehicle rental service provider for a plurality of users comprising: a server system including a routine and a database having vehicle rental variables associated with each of the vehicle rentals; a plurality of client systems for the users, each of the client systems including a data entry component selecting one of the vehicle rental variables, entering a value corresponding to the selected one of the vehicle rental variables, and entering a request for a report based upon the value and the selected one of the vehicle rental variables; and a global communication network interconnecting the server system with the client systems, the global communication network sending the request from one of the client systems to the server system, the routine of the server system generating the report for at least one of the vehicle rentals for which the selected one of the vehicle rental variables differs from the entered value, the global communication network sending the report to the one of the client systems.

Claim 42 recites that the routine of the server system generates the report for at least one of the vehicle rentals for which the *selected one of the vehicle rental variables differs from the entered value*.

The Examiner states that Hertz-I does not disclose allowing business partners to access Hertz system to get information with transactions they are involved in, and that Hertz-I does not disclose a database having rental claim information, displaying claim information, or managing claim processing and reviewing claim information.

The Examiner states that it is “known to use Electronic Data Interchange (EDI) to exchange data with business partners e.g. IBM’s WebSphere, Message Queue Manager (MQM), APPC etc. to expedite transactions and minimize paper consumption.” In the absence of a reference in support of this statement, that statement is traversed and it is requested that the Examiner cite a reference within the context of the present claims.

Hertz-II, which discloses an interactive reservation process for car rentals, and which does not teach or suggest managing claim processing and reviewing claim information, does not teach or suggest a routine of a server system generating a report for a vehicle rental for which a selected vehicle rental variable differs from an entered value.

As to Claim 42, the Examiner states that Aquila et al. discloses “to review rental claim information [Fig. 4]”. Aquila et al., which discloses (Figure 28) canned or standard reports, which discloses (Figure 29) reports that are indexed by region and by state within each region, reports that show specific details per day, per week, per month, per quarter, per year, by service office, by adjuster, by region and by insurance carrier, and which

discloses analyzing and comparing trends in the processing of claims by providing the average estimate for a certain type of repair over a current quarter, the month prior to the current quarter, the quarter prior to the current quarter, and the year prior to the current quarter, adds nothing to Hertz-II regarding the refined recital of Claim 42.

Without waiving Applicants' traversal of Motorola and assuming, without admitting that Motorola is "printed publication" within the meaning of 35 U.S.C. 102(a) and (b), at best, Motorola discloses a way to examine a Motorola customer's purchase order number by requested ship date, scheduled ship date and actual ship date. Hence, Motorola adds nothing to Hertz-II and/or Aquila et al. regarding a routine of a server system generating a report for a vehicle rental for which a selected vehicle rental variable differs from an entered value.

Hence, for the above reasons, it is submitted that Claim 42 patentably distinguishes over the references.

Claims 43-48 depend from Claim 42 and patentably distinguish over the references for the same reasons.

Furthermore Claim 44 recites that the vehicle rental variables include an authorized rental rate and an actual rental rate; that the entered value is a cost value; and that the routine generates the report including at least some of the open rentals for which the actual rental rate exceeds the authorized rental rate. Claim 44 further patentably distinguishes over the references for similar reasons as was discussed above in connection with Claim 15.

Furthermore Claim 45 recites that the vehicle rental variables include an authorized rental period; that the entered value is a time value; and that the routine generates the report including at least some of the open rentals for which the authorized rental period is less than the time value. Claim 45 further patentably distinguishes over the references for similar reasons as was discussed above in connection with Claim 16.

Furthermore Claim 46 recites that the vehicle rental variables include a count of rental extensions; that the entered value is a count value; and that the routine generates the report including at least some of the open rentals for which the count of rental extensions exceeds the count value. Claim 46 further patentably distinguishes over the references for similar reasons as was discussed above in connection with Claim 17.

Furthermore Claim 47 recites that the vehicle rental variables include a total rental cost; that the entered value is a cost value; and that the routine generates the report including at least some of the open rentals for which the total rental cost exceeds the cost

value. Claim 47 further patentably distinguishes over the references for similar reasons as was discussed above in connection with Claim 18.

Furthermore Claim 48 recites that the vehicle rental variables include an extension time period; that the entered value is a time value; and that the routine generates the report including at least some of the open rentals for which the extension time period exceeds the time value. Claim 48 further patentably distinguishes over the references for similar reasons as was discussed above in connection with Claim 19.

Vinati et al., Pub. No. 2002/0046213, shows a U.S. publication date of April 18, 2002, and a U.S. filing date of June 14, 2001. The present Application was filed on January 19, 2001, and, thus, Vinati et al. cannot be “prior art” as contemplated by Section 102 and/or Section 103(a).

It is respectfully submitted that Section 103(a) (dealing with the “differences between the subject matter sought to be patented and the ‘prior art’”) sheds no light on the question of whether a U.S. Patent Application Publication is prior art.

Although Vinati et al. is a printed publication as contemplated by Section 102(a), Vinati et al.’s publication date of April 18, 2002 is after Applicants’ filing date of January 19, 2001, thereby removing it as prior art under Section 102(a). Clearly, Vinati et al. is also not prior art under Section 102(b), which requires that the publication date be more than one year prior to the date of the application for patent.

Section 102(e)(1) deals with an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent. Although Vinati et al. purports to claim priority from an Italian patent application filed on October 17, 2000, such Italian patent application is clearly not a United States application for patent. Furthermore, even if Vinati et al. might issue as a U.S. patent, Section 102(e)(2) deals with a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent. Again, such Italian patent application is clearly not a United States application for patent, and the U.S. filing date of Vinati et al. is after the filing date of the present Application.

Since there is no International (PCT) application involved, the Section 102(e) date of Vinati et al. is its U.S. filing date of June 14, 2001, which is after Applicants’ filing date of January 19, 2001. Hence, it is clear that Vinati et al. is also not prior art under Section 102(e). This conclusion is entirely consistent with the Office’s own training materials:

Don't EVER apply a reference based on a foreign priority filing date claimed under 35 USC §§ 119(a)-(d) or 365(a), in

US ... application publications ... as the prior art date under § 102(e).

* * *

**EX. A1B. PUBLICATION OF § 111(a) APPLICATION
WITH § 120 BENEFIT CLAIM AND § 119(a)-(d) PRIORITY
CLAIM TO A FOREIGN APPLICATION**

... a foreign application filed in Japan on May 29, 1998; a first § 111(a) application filed on May 28, 1999, claiming § 119(a)-(d) priority to the Japanese application; a second § 111(a) application filed on June 20, 2000 under 37 CFR 1.53(b) or (d) with § 120 priority claim to the earlier § 111(a) application; a third § 111(a) application filed on January 22, 2002 under 37 CFR 1.53(b) or (d) with § 120 priority claim to the earlier § 111(a) applications; and publication of the third § 111(a) application under § 122(b).

*US application publication § 102(e)(1) date: ...May 28, 1999
No benefit of the foreign application is given under
§ 102(e)(1).*

(In re Hilmer, 149 USPQ 480 (CCPA 1966)).

<http://www.uspto.gov/web/offices/dcom/olia/aipa/textpp102e.htm> (35 USC §§ 102(e) and 374 as amended by HR 2215 (Technical Correction Act) (Text Version)) (*emphasis added*).

In view of the foregoing, it is respectfully submitted that Vinati et al. cannot be “prior art” to the present Application.

Summary and Conclusion

The prior art made of record and not relied upon but considered pertinent to Applicants’ disclosure has been reviewed. In summary, it is submitted that the claims are allowable over the references of record.

Reconsideration and early allowance are respectfully requested.

Respectfully submitted,

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